

Remarks

Upon entry of the foregoing Amendment, claims 1-18 are pending, with claims 2-5 and 7 being withdrawn as directed to non-elected species. Claims 1, 8, and 10-17 are sought to be amended. New claim 18 is sought to be added. These changes are supported by the specification as originally filed, and do not introduce new matter. Accordingly, entry of the foregoing Amendment is respectfully requested.

Claim Rejections – 35 U.S.C. § 103

In the Office Action, the Examiner sustains the rejection of claims 1, 6, and 8-13 under 35 U.S.C. § 103(a) as allegedly being unpatentable over a document authored by N.T. Chan, E. Dahan, A.W. Lo, and T. Poggio, entitled “Experimental Markets for Product Concepts,” Center for eBusiness @MIT, Paper 149 (July 2001) (herein referred to as “Chan”) in view of U.S. Patent No. 6,269,361 to Davis *et al.* (herein referred to as “Davis”); and rejects claims 14-17 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Chan and Davis, and further in view of Applicants’ specification (namely page 2, lines 1 and 2). Paper No. 101605, pages 2-8.

To support the rejection, the Examiner equates the “keywords” described by Davis with the “term-based concepts” recited in Applicants’ claims. Although Applicants do not agree with the Examiner’s characterization of Chan and/or Davis, Applicants consider the rejection to be moot in light of the Amendment herein. For example, independent claims 1, 13, 16, and 17 have been amended to recite features comparable to “determining a value of the instrument based at least in part on a quantity of computerized searches utilizing the one or more concepts to locate information,” which is not taught or suggested by Chan and Davis, taken alone or in combination with each other. As supported by Applicants’ specification, independent claims 1, 13, 16, and 17 recite a method that allows the marketing (e.g., trading, exchanging, buying, selling, transacting, or the like) of “instruments for term-based concepts,” which are valued in accordance with an algorithm that quantifies the utilization (e.g., demand, popularity, etc.) of certain “term-based concepts” by a plurality of participants within a networked community. See Applicants’ specification at page 6, lines 11-19; page 10, lines 9-11; and page 14, lines 16-18. The quantity of utilization can be proportionally related to the value of the concept-based instrument, and the

instrument's value can be predicted or estimated to allow the concept-based instrument to be applied as, for example, a hedging tool, speculating tool, market forecasting tool, or data generating tool. See Applicant's specification at page 8, lines 19-20.

By comparison, assuming that the "keywords" described by Davis can be considered to be "term-based concepts" (which Applicants do not concede), Davis does not teach or suggest "determining a value of an instrument based at least in part on a quantity of computerized searches utilizing one or more keywords to locate information." As shown in the passages cited by the Examiner, Davis discusses a "pay-for-performance" marketing system that enables advertisers to place bids on search terms to thereby influence the placement of the advertisers' web site when it appears in a list of search results. (See Davis at column 5, lines 1-34). Neither the advertiser's bid amount nor the total advertising cost owed by the advertiser is based on "a quantity of computerized searches utilizing one or more keywords." On the contrary, Davis describes that the "charge to the advertiser...is based on the number of referrals to the advertiser's web site," which does not teach or suggest that the charge can be "based at least in part on a quantity of computerized searches utilizing one or more keywords to locate information." It should be noted that Chan does not cure the defects of Davis since it likewise does not teach or suggest the above-mentioned feature.

The dependent claims are patentable for additional reasons. While deemed unnecessary to argue these additional reasons at this time, given the arguments presented above, the Applicants reserve the right to present such arguments should it becomes necessary or desirable to do so. However, with respect to claims 14-17, Applicants do not concede to the Examiner's characterization of lines 1 and 2 on page 2 of the Applicants' specification as including disclosed prior art. See Paper No. 101605, page 8. Although this language appears in the "Background of the Invention" section of the specification, this language should not be construed as an admission by the Applicants of prior art. Applicants are not aware of any relevant statute, rule, regulation, agency board decision, or court case that expressly states that every statement within the "Background of the Invention" is a per se admission of prior art. Merely describing information known by the Applicants (including, for example, the subject matter of concurrently filed, commonly owned patent applications to provide a context for the "Detailed Description" section of a current patent application) should not be construed as a per se explicit or implicit admission

of prior art. As such, Applicants respectfully submit that the Examiner's characterization of the Applicants' specification is erroneous.

In addition, Applicants respectfully request rejoinder, reconsideration, and allowance of the non-elected claims 2-5 and 7, since they depend from independent claim 1, which Applicants believe to be allowable for the reasons stated above.

New claim 18 has been added to recite further features of Applicant's invention. New claim 18 depends from independent claim 1, and therefore is patentable over Chan and/or Davis for at least the reasons stated above.

For the above reasons, Applicants respectfully request reconsideration and withdrawal of the above rejection, and allowance of the pending claims, including new claim 18.

Conclusion

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

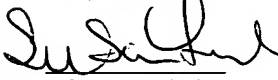
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Susan Formicola March 20, 2006
Date